

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re NURTURE BABY FOOD LITIGATION

Master File No.: 1:21-cv-01217-MKV

This Document Relates To:

The Honorable Mary Kay Vyskocil

ALL ACTIONS

**DECLARATION OF MELISSA R. EMERT  
IN SUPPORT OF THE W-R SLATE'S MOTION FOR APPOINTMENT OF INTERIM  
CO-LEAD COUNSEL AND EXECUTIVE COMMITTEE**

I, Melissa R. Emert, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I make this certification in support of Plaintiffs' Motion for Appointment of Interim Co-Lead Counsel pursuant to Fed. R. Civ. Proc. 23(g).

2. The within motion seeks, *inter alia*, to appoint me as a member of the Executive Committee in this matter.

3. I am an attorney duly admitted before this Court. I am a partner at Kantrowitz, Goldhamer & Graifman, P.C. ("KGG"). I submit this declaration in support of my appointment as a member of the Executive Committee pursuant to Federal Rule of Civil Procedure 23(g). Each of the facts set forth below is true and correct with my personal knowledge and if called and sworn as a witness, I would competently testify thereto.

4. I am co-chair of KGG's consumer class action practice and have been representing aggrieved consumers and investors for more than 30 years with KGG and with my previous firm Stull, Stull & Brody. See KGG Resume attached as Exhibit A. I specialize in consumer class action litigation with an emphasis on product defect cases and data breach cases. I have litigated consumer cases throughout the United States and have held prominent positions

in many large MDLs and non-MDL consumer class actions. As an endorsement of my expertise, substantial experience, and successful results, I was recently named as one of two women attorneys in the country who received the highest number of appointments to leadership structures in nationwide MDLs by the Judges overseeing those MDLs.<sup>1</sup>

5. Among all areas of consumer class actions, I have substantial experience in the plaintiffs' vetting process and plaintiffs' discovery. In many of the consumer class actions that I am involved in, I take the lead role in developing and implementing the plaintiffs' vetting and plaintiffs' discovery in order to determine which injured class members are best positioned to represent the full spectrum of the putative class. I have vetted hundreds of plaintiffs in over a dozen cases and strive to ensure that counsel maintain continuing relationships and communications with the plaintiffs throughout the litigation. I spend many hours speaking to plaintiffs about their experiences, damages and what to expect during the litigation as well as keeping them apprised of the status of the litigation throughout.

6. KGG is a leading New York class action firm in consumer class action litigation, as well as shareholder litigation. The firm has successfully litigated numerous class action consumer cases in this Court and in other courts throughout the nation. For example, the firm was co-lead class counsel in *In re Volkswagen Timing Chain Product Liability Litig.*, 16-cv-2765-JLL-JAD (D.N.J.), which settled on a nationwide basis and granted final approval in the District of New Jersey, involving approximately 477,000 class vehicles. KGG was a court appointed member of the Plaintiffs' Steering Committee in *In re The Home Depot Consumer Data Security Breach Litigation*, 1:14-md-02583-TWT (N.D. Ga.), relating to the massive data

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<sup>1</sup> See, "There Are New Faces Leading MDLs, And They Aren't All Men" Law.com, July 7, 2020. <https://www.law.com/2020/07/06/there-are-new-faces-leading-mdls-and-they-arent-allmen/>

breach consumer class action, which was settled on a nationwide basis in 2016. In *Oliver, et al. v. Bayerische Motoren Werke Aktiengesellschaft, et al.*, 2:17-cv-12979-CCC-MF (D.N.J.), KGG served as Co-Lead Counsel in the case which involved defective electric coolant pumps on various BMW model vehicles. The matter settled and Final Approval was granted on March 9, 2021. The class includes approximately 563,227 vehicles. The Settlement is valued at approximately \$30 Million. In *Coffeng, et al. v. Volkswagen Group of America, et al.*, 3:17-cvb—01825-JD (N.D. Cal.), KGG served as Co-Lead Counsel for this consumer class action involving defective water pumps in a multitude of Volkswagen and Audi model vehicles. Final Approval was granted to the settlement on May 14, 2020. The case encompassed a nationwide class of owners and lessees of approximately 873,779 class vehicles and was valued at approximately \$22 million.

7. KGG has the resources necessary to finance a case of this magnitude. I understand what is required to undertake a litigation of this size and we will commit the resources necessary to achieve a favorable result for the class and any subclasses certified. As demonstrated by my firm resume, for decades, KGG's attorneys successfully managed complex, resource-intensive cases, with the firm routinely advancing the costs of litigation and dedicating substantial resources to vigorously prosecute the claims of proposed class members. As demonstrated by the cases described in our firm's resume, KGG has achieved great success for consumers throughout the nation.

8. I have the following court-appointed leadership positions in consumer product defect cases: Co-Lead Counsel in *Kellie Carder, et al., v. Graco Children's Products, Inc.*, 2:20-cv-00137 (N.D. Ga. 2020) ( representing consumers who purchased Graco booster seats based on false representations of their safety and weight limits); Plaintiffs' Executive Committee in *In re:*

*Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, 19-md-2887 (D. Kan.2019) (representing consumers who purchased dog food that contained toxic levels of Vitamin D); Discovery Committee in a court approved leadership structure in *In re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation*, 1:19-md-2903 (W.D.N.Y. 2019) (representing consumers who purchased the defective and inherently unsafe Fisher-Price Rock 'n Play Sleeper for their infant children) and Plaintiffs' Steering Committee in *In re: Intel Corp. CPU Marketing and Products Liability Litig.*, 3:18-md-02828 (D. Or. 2018) (claims on behalf of Intel processor users that have been affected by Intel's alleged defective processors).

In addition to the above cases, I have the following court-appointed leadership positions in class action cases:

- Court appointed Co-Lead Counsel in *In re: Daily Fantasy Sports Litig.*, 1:16-md-02677- GAO (D. Mass 2016) (alleging violations of state consumer protection statutes and common law claims on behalf of consumers participating in defendants' online fantasy sports websites).
- Court appointed to Plaintiffs' Steering Committee in *In Re: Blackbaud, Inc., Customer Data Breach Litigation*, 3:20-mn-02972 (D. S.C. February 16, 2021) (claims on behalf of persons affected by Blackbaud's data breach and had their personal and private information compromised).
- Court appointed to Plaintiffs' Executive Committee in *Tate, et al., v. Eyemed Vision Care, LLC*, 1:21-cv-36 (S.D. OH March 22, 2021) (claims on behalf of persons affected by Eyemed's data breach and had their personal information compromised).
- Court appointed member of Plaintiffs' Executive Committee in *Tillman et al., v. Morgan Stanley Smith Barney, LLC*, 1:20-cv-05915 (S.D.N.Y. 2020) (claims on behalf of persons affected by Morgan Stanley's data breach and had their personal information compromised).
- Court appointed member of Plaintiffs' Steering Committee in *Cercas et al., v. Ambry Genetics Corp.*, 8:20-cv-00791 (C.D. Cal. 2020) (claims on behalf of persons affected by Ambry's data breach and had their personal and private health information compromised).
- Court appointed member of Plaintiffs' Steering Committee in *In re: Intel Corp. CPU Marketing and Products Liability Litig.*, 3:18-md-02828 (D. Or. 2018) (claims on behalf of Intel processor users that have been affected by Intel's alleged defective processors).

- Court appointed member of Plaintiffs’ Executive Committee in *In re: Apple Inc. Device Performance Litig.*, 5:18-md-02827 (N.D. Cal. 2018) (claims on behalf of iPhone and iPad users that have been affected by the alleged intentional slowdown of the processors).
- Court appointed member of Plaintiffs’ Steering Committee in *In re: German Automotive Mfr. Antitrust Litig.*, 3:17-md-02796 (N.D. Cal. 2017) (alleging anticompetitive conduct in the market for German-made automobiles).
- Court appointed member of Plaintiffs’ Steering Committee in *In Re: Sonic Corp. Customer Data Sec. Breach Litig.*, 1:17-md-02807 (N.D. Ohio 2017) (claims on behalf of persons affected by Sonic’s data breach resulted in a class wide settlement).
- Class Representative Communications and Client Vetting Committee in a court approved leadership structure in *Echavarria, et al. v. Facebook, Inc.*, C 18- 05982 (N.D. Cal. 2018) (claims on behalf of persons that have been allegedly affected by Facebook’s “View As” data breach).
- Co-Chair of Plaintiffs’ Vetting Committee in a court approved leadership structure in *In re Wawa, Inc. Data Breach Litigation*, No. 19-cv-6019 (E.D. Pa. 2019) (claims on behalf of persons affected by Wawa’s data breach and had their personal information compromised).
- Court appointed Interim Class Counsel in *In re: Google Location History Litig.*, 5:18-cv- 05062-EJD (N.D. Cal. 2019) (a privacy breach action alleging Google tracked millions of mobile device users’ geolocation after falsely representing that activating certain settings will prevent the tracking).

9. In addition, I have had major roles in class actions which resulted in large recoveries for numerous classes. For example, I had significant roles in, among other cases, *Overby v. Tyco Int’l, Ltd.*, (N.D. N.H.) (class recovery of \$70,525,000); *In re Westinghouse Sec. Litig.*, (W.D. Penn.) (class recovery of \$67.25 million); *In re Sunglass Hut Intl., Inc. Sec. Litig.*, (S.D. Fla.) (class recovery of \$4.5 million in cash); and *Szymczak v. Nissan N. A. Inc.*, (S.D.N.Y.) (recovery valued at over \$14 million obtained on behalf of a multi-state nationwide class).

10. For a full list of my accomplishments and the accomplishments of KGG, see our firm resume attached as Exhibit A.

11. I have an excellent working relationship with most of the firms and counsel on this leadership application and have worked or is currently working with most of them in other class

actions. I have a long history of working cooperatively with other counsel, including opposing counsel as does my firm KGG. My history of leadership appointments establishes that I can work effectively as part of leadership of this in addition to class-actions.

12. The proposed Executive Committee is comprised of eminently qualified attorneys who are experienced in the matters presented in this litigation, and capable of leading these Related Actions themselves. The proposed leadership structure provides an efficient and effective way to ensure that Plaintiffs can commit the necessary time and resources to this litigation. The resources that the supporting law firms have and will continue to commit to this litigation simply cannot be matched by any single law firm.

13. It is my understanding that all counsel involved in these consolidated matters support my appointment as a member of the Executive Committee.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 27, 2021

/s/ Melissa R. Emert  
Melissa R. Emert  
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